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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Joseph Carpenter ) Group Art Unit: 3754  
Appl. No. : 10/630,008 )  
Filed : July 29, 2003 )  
For : CONTROL VALVE HAVING )  
MOVEABLE OUTLET )  
Examiner : John Bastianelli )

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

February 17, 2005

R. Scott Wolfe, Reg. No. 37,755

TRANSMITTAL

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith with respect to the above-identified application are:

- (X) Appeal Brief to the Board of Patent Appeals and Interferences in 12 pages along with Appendix A (claims of application) in 10 pages; Exhibit A (U.S. Patent No. 6,685,162) in 9 pages; Exhibit B (Notice of Allowability for Patent Application No. 09/519,869) in 4 pages; Exhibit C (Amendment After Notice of Allowance for Patent Application No. 09/519,869) in 13 pages; Exhibit D (Examiner's Response to Amendment After Notice of Allowance For Patent Application No. 09/519,869) in 2 pages (**in triplicate**);
- (X) Return Prepaid Postcard; and
- (X) A check in the amount of \$250.00 for submitting this Brief (for a Small Entity).

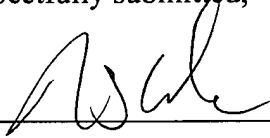
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(X) The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No.: 502200. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Dated: February 17, 2005

By: \_\_\_\_\_

  
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EXECU.0002P

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant : Joseph Carpenter )

Group Art Unit: 3754 )

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**APPEAL BRIEF**

**I. REAL PARTY IN INTEREST**

The subject application is owned by and the real party in interest is inventor and applicant/appellant Joseph Carpenter.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

**III. STATUS OF CLAIMS**

By the Office Action mailed September 28, 2004, the Examiner finally rejected all pending claims, Claims 1-23.

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#### **IV. STATUS OF AMENDMENTS**

No amendments have been filed subsequent to the final rejection of September 28, 2004.

#### **V. SUMMARY OF INVENTION**

Conventional flow control valves, such as water valves used in automatic sprinkler systems, are difficult to install and replace. These valves have a housing having one opening which comprises an inlet and another opening which comprises an outlet. The end of an inlet pipe is connected to the inlet of the valve, and the end of an outlet pipe is connected to the outlet of the valve. Often, the positions of the ends of the inlet and outlet pipes are fixed. For example, the inlet and outlet pipes are buried, with only their ends at the location of the valve being exposed. See Background of the Invention at Page 2, lines 6-20.

Unfortunately, for the pipe ends to be connected to the valve, the ends of the pipes and the valve must overlap to form the connection. Thus, if the space between the pipe ends where the valve is to be installed is large enough for the valve, there is no overlap and the connection can not be formed. If the components are arranged to permit an overlap, then during installation the problem arises that the space between the pipe ends is less than the total length of the valve. See Background of the Invention at Page 3, lines 1-6.

Generally, this problem is addressed by bending or flexing either or both of the inlet and/or outlet pipes. The bending or flexing changes the position of the end of the pipe for a moment, permitting it to be attached to the valve. Once the end of the pipe is slip fit or screwed onto the valve, the overlap permits the pipe to be moved back to its original position. A significant problem

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with this solution is that it often requires that the inlet and/or outlet pipe be dug up to permit sufficient movement or flexing thereof, and often the inlet and/or outlet pipe cracks or breaks when flexed. See Background of the Invention at Page 3, line 18 to Page 4, line 8.

Referring to Figures 1, 5 and 6 of the application, the present invention is a valve (20) having a housing (32) and at least one extendable member. The extendable member may be either or both of an inlet extension (42) and an outlet extension (62). The extendable member has one end which defines a port of the valve (20) – in the case of the inlet extension (42), the port is the inlet (38) of the valve, and in the case of the outlet extension (62), the port is the outlet (40) of the valve.

The extendable member has a second end (in the case of the inlet extension (42), end (46), and in the case of the outlet extension (62), end (66)) which is located within the housing (32) and which is movable with respect to the housing (32). The second end of the extendable member sits within a passage (50)/(70) through the housing (32) of the valve (20), the passage being a part of the flow path through the valve which has flow controlled by a control element. See Page 8, lines 14-20 of the application.

The extendable member (i.e., inlet extension (42) and/or outlet extension (62)) is permanently coupled to the housing (32) so that it is not removable therefrom. As illustrated, this coupling is effected by a stop (56)/(76) which cooperates with an enlarged end portion of the extendable member to cause the extendable member to be a permanent portion of the housing (32).

In use, the extendable member (42)/(62) may be moved with respect to the housing (32). This movement permits the position of the end of the extendable member (42)/(62) which defines the inlet or outlet port of the valve (20) to be moved. The extendable member (42)/(62) is moved inwardly

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to shorten the length of the valve (20) in order to place the valve between inlet and outlet pipes. Once so positioned, the extendable member (42)/(62) is moved outwardly to overlap and mate with the inlet and outlet pipes. See Page 16, lines 8-15.

In the parent to this application, Appellant sought protection for the version of the invention where the valve includes extendable members at both ends, those members defining both the inlet and outlet to the valve. The U.S. Patent and Trademark Office determined that Appellant's invention was patentable, and issued U.S. Patent No. 6,685,162 to Appellant on February 3, 2004. Appellant thereafter filed the present application to pursue claims directed to the version of the invention comprising a valve having a single movable member (i.e. movable member defining the inlet or outlet), and later sought additional claims to the version of the valve having two moveable members.

## **V1. ISSUES**

Appellant requests review of the Examiner's final rejection of Claims 1-23 over prior art under 35 U.S.C. § 102 and/or 103.

## **VII. GROUPING OF CLAIMS**

The appealed claims are grouped together as follows:

Group I: Claims 1-12, directed to a method of installing a valve and a valve having two ports defining an inlet and an outlet, the position of one of the ports being fixed and the other port defined by an extendable member, whereby the position of that port may be changed.

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Group II: Claims 13-23, directed to a method of installing a valve and valve having two ports defining an inlet and an outlet, both ports being defined by extendable members, whereby the position of either or both ports may be changed.

Appellant asserts that Claims 1-12 stand or fall together, and than Claims 13-23 stand or fall together, but stand or fall independent of Claims 1-12.

### **VIII. ARGUMENT**

#### **A. CLAIMS OF GROUP I: CLAIMS 1-12**

##### **The Examiner's Assertions**

The Examiner rejected Claims 1-9 under 35 U.S.C. § 102(b) as being anticipated by Gorman, Jr. (USPN 5052751). The Examiner rejected Claims 10-12 under 35 U.S.C. § 103(a) as being unpatentable over Gorman, Jr. in further view of Aitken et al. (USPN 5024469).

The Examiner asserts that Gorman, Jr. discloses "a method of installing a valve" including providing "a valve 40/50 having a housing," the "valve including an inlet port," the "inlet port fixed in position relative to the housing," and "the valve further including an extendable member 2 permanently coupled to said housing." The Examiner indicates that Gorman, Jr. lacks the teaching of "a first enlarged part of the housing with the second end of the extendable member located in this enlarged part and having a greater diameter than the first portion of the extendable member." The Examiner asserts, however, that Aitken discloses such a configuration.

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Appellant's Assertions

§102 Rejections:

In order for Gorman, Jr. to anticipate Claims 1-9, every element of the claimed invention must be identically shown in that reference, and the elements must be arranged as in the claim under review. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Appellant asserts that Gorman does meet these requirements.

Among other things, independent Claims 1 and 4 include the limitation of a valve having an extendable member permanently coupled to the housing, and where a second end of the extendable member is located within the housing. These claims also recite that the valve is configured to selectively open and close the passage therethrough.

Appellant asserts that Gorman does not disclose such limitations. Gorman discloses a water meter coupling (10). That coupling is configured to be attached to the outlet side of a water meter (40/50). Gorman clearly discloses that the coupling (10) is not permanently coupled to the water meter (40/50) – Gorman's figures admit such, illustrating the coupling (10) completely separate or disconnected from the water meter (40/50). Clearly the coupling (10) can not be permanently coupled to the meter (40/50) when, at least at times, it is not coupled to the meter at all, as illustrated.

Second, Appellant asserts that Gorman does not disclose an extension having an end which is located within the housing. Even if Gorman's coupling (10) is connected to a water meter (40/50), the end thereof (nut 6 or flange 24) is located outside of the meter (40/50).

In the "Response to Arguments" section of the Office Action mailed September 28, 2004, the Examiner indicates the following:



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Regarding applicant's argument that a water meter does not have a valve, see col. 1, lines 32-44. Gorman discloses that a valve is used in a water meter.

Appellant asserts that this characterization is erroneous. At col. 1, lines 32-44, Gorman discloses that in a water meter box, there is a "cut off" valve which is connected to a water service line. Gorman further discloses that this cut-off valve is connected to a water meter by a first of two "union joint" nipples in the meter box. The inlet side of a water meter is then connected to the outlet side of the valve via another "union joint," and the outlet side of the water meter is connected to a water line leading to a house.

Gorman's invention is a water meter coupling configured to be positioned between a water meter and a house water line. Gorman's invention is not a valve, or even a water meter, but a simple pipe coupling. Even assuming that Gorman "discloses" a water valve, the requirements of Section 102 are not met in that Gorman simply discloses a water supply configuration comprising a supply line, a cut-off valve connected to that line, a water meter coupled to the valve by a joint, and a service coupling for connection to the meter. Claims 1 and 4, however, are directed to a valve configured to selectively open and close a passage therethrough, the valve also having an extendable member permanently coupled to the housing, where a second end of the extendable member is located within the housing. Gorman simply does not disclose or suggest such a device.

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§ 103 Rejections

The Examiner rejected Claims 10-12 as being unpatentable over Gorman, Jr. in view of Aitken et al. (USPN 5,024,469). The Examiner asserts that Gorman, Jr. teaches all of the limitations of the invention as claimed except the housing including an enlarged portion in which the second end of the extendable member is located.

Again, Appellant asserts, for the reason stated above, that Gorman, Jr. lacks any disclosure or suggestion of a great number of the limitations of the claims. As such, Appellant asserts that Gorman, Jr. in combination with Aitken is a combination which does not teach or disclose the invention as claimed.

Further, to the extent Aitken discloses providing an enlarged housing accepting a smaller-sized pipe, it is not clear how that configuration would apply to Gorman, Jr. which discloses a housing (2) which is configured to accept an insert (1) and piston (3) so that both may move towards and away from another (as indicated at "A" in Figure 1 of Gorman, Jr.). In particular, if the piston (3) were enlarged to accept the housing (2), then how would the piston (3) and insert (1) move relative to one another as intended? In short, Appellant asserts that the teaching of Aitken is inapplicable to Gorman, Jr.

Appellant asserts that the prior art, including Aitken, does not disclose or suggest a valve having an inlet and outlet and a passage between the inlet and outlet, the valve configured to control the flow through the passage, a first portion of the passage leading from the inlet defined by a housing and a second portion of the passage leading to the outlet defined by an integral extension having an end located in the housing, the position of the outlet movable relative to the housing.

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**B. CLAIMS OF GROUP II: CLAIMS 13-23**

The Examiner's Assertions

The Examiner rejected Claims 13-19 under 35 U.S.C. § 103(a) as being unpatentable over Gorman, Jr. and rejected Claims 20-23 under 35 U.S.C. § 103(a) as being unpatentable over Gorman, Jr. in further view of Aitken et al. (USPN 5024469).

Appellant's Assertions

Appellant notes that Claims 13-23 have as their origin Claim 1-12 of Appellant's issued U.S. Patent No. 6,685,162. In that parent case (filed as Application Serial No. 09/519,869), Claims 1-12 were found allowable. By an Amendment After Notice of Allowance filed, but not entered, in that parent application, Appellant sought to introduce additional claims. Those claims included the limitations of the allowed claims, but were amended to ensure consistency in the language used in the claims. The Examiner indicated that, because the Notice of Allowance had been issued, those claims should be presented in a continuation application. Appellant re-presented those claims in the present application as Claims 13-23.

In the parent application, in the "Reasons for Allowance," the Examiner indicated that:

The prior art of record fails to disclose a method of installing a valve or a control valve with a housing with first and second extendable members, both moveable within the housing having first and second ports, the length of the passages through the valve being adjustable in length, wherein moving either or both extendable members changes the position of the first and second ports and connecting the first and second ports to inlet and outlet pipes.

See U.S. Patent No. 6,685,162 attached hereto as Exhibit A; the Examiner's "Reasons for Allowance" of parent application 09/519,869 attached as Exhibit B; Appellant's "Amendment After Notice of Allowance" filed in the parent application attached as Exhibit C; and the Examiner's Response thereto attached as Exhibit D.

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The Examiner now seeks to reject over Gorman, Jr., claims having the very limitations which the Examiner previously indicated defined the invention over the prior art. The Examiner admits that Gorman, Jr., like the prior art reviewed in the parent application, does not disclose more than one extendable member, but now asserts that it would have been obvious to one of ordinary skill to provide multiple extendable members. This is completely contrary to the Examiner's own finding and statement in the parent case, which is now issued, that a valve having multiple extendable members defines patentable subject-matter.

Even aside from the Examiner's own previous admission that the subject-matter claimed in Claims 13-23 is patentable over the prior art, Appellant asserts that a simple review of the prior art and the claims establishes their patentability. First, as disclosed above, Gorman, Jr. discloses only a coupling which is designed to be positioned between a water meter and a house water line. If the suggestion is to modify this coupling, it is not clear how one would do so, in that a piston (3) already extends from one end of the housing (2) and the insert (1) extends from the other.

If the Examiner's suggestion is that it would be obvious to connect such a coupling to each end of a water meter, this assertion is contrary to the art and the principals of Section 103. Even if Gorman's coupling were attached to each end of a water member, such would still not comprise the invention as claimed, which recites a flow controlling valve having integral extendable members. Further, Gorman, Jr. specifically discloses a coupling arrangement where the inlet side of a water meter is connected to a cut-off valve with a "union joint" and the outlet side of the meter is

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connected to a house water supply line with the coupling. There is no teaching or suggestion to use a coupling on both sides of the meter, and in fact, an explicit teaching not to do so.

In this case, it appears that the Examiner is using hindsight to create a combination of elements which does not exist in the prior art, and which is not suggested by the prior art. Obviousness may not be established using hindsight. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1551, 1553, 220 U.S.P.Q. (BNA) 303, 311, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Obviousness may only be established by combining pieces of prior art if there is some "teaching, suggestion, or incentive supporting the combination." In re Geiger, 815 F.2d 686, 688, 2U.S.P.Q.2d 1276, 1278 (Fed Cir. 1987).

Further, even though various of the elements of the invention may be found individually in a number of references, this does not mean that the invention as a whole is unpatentable. As stated by the Court of Appeals for the Federal Circuit, "[v]irtually all inventions are combinations and virtually all are combinations of old elements." Intel Corp. v. U.S. Int'l Trade Comm., 946 F.2d 821, 842, 20 U.S.P.Q.2d 1161, 1179 (Fed. Cir. 1991). Nonetheless, "it may be that the combination of the old elements is novel and patentable." Clearstream Wastewater Sys. v. Hydro-Action, Inc., 206 F.3d 1440, 1444, 54 U.S.P.Q.2d 1185, 1189 (Fed. Cir. 2000). Further, while an Examiner may identify individual references which show individual elements of a claimed invention, for a combination of references to be proper and obviate the invention, there must be a suggestion or motivation, to combine reference teachings. MPEP 706.02(j); ACS Hospital Sys., Inc., v. Montefiore Hospital, 732 F.2d 1572 (Fed. Cir. 1984). In fact, a reference may even teach away from

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a particular combination (See In re Baird, 16 F.3d 380, 29 U.S.P.Q.2d 1550 (Fed Cir. 1994).

Appellant asserts, that adherence to these requirements establishes the patentability of the claims.

Dependent Claims 2-3, 5-12, 14 and 16-23

Appellant asserts that these claims are allowable for the reason that they depend from an allowable independent claim.

**IX. APPENDIX**

The claims on appeal are set forth in Appendix A.

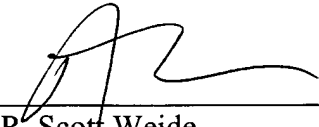
**SUMMARY**

For the foregoing reasons, it is submitted that the Examiner's rejection of Claims 1-23 was erroneous, and reversal of the Examiner's decision is respectfully requested.

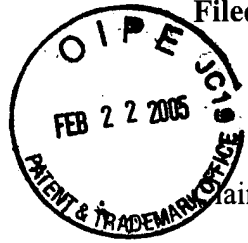
Respectfully submitted,

Dated: February 17, 2005

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## APPENDIX A

claims on appeal:

1. A method of installing a valve between an inlet and an outlet pipe comprising:  
providing a valve having a housing defining a first portion of a passage through said valve, said valve including an inlet port at a first end of said passage through said valve, said inlet port fixed in position relative to said housing, said inlet port leading to said first portion of said passage through said valve, said valve further including an extendable member permanently coupled to said housing, said extendable member having a first end and a second end, said first end comprising an outlet port of said valve at a second end of said passage through said valve and said second end of said extendable member located within said housing and in communication with said first portion of said passage through said valve, said second end of said extendable member movable within said housing, said extendable member defining a second portion of said passage through said valve, said second portion of said passage defined by said extendable member between said outlet port and said first portion of said passage through said housing, said valve including a control configured to selectively open and close said passage through said valve from said inlet port to said outlet port;  
connecting said inlet port of said valve to said inlet pipe;  
moving said first end of said extendable member into a position in which it mates with said outlet pipe, said position of said outlet port of said valve changing relative to said housing; and  
connecting said outlet port of said valve to said outlet pipe.

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2. The method in accordance with Claim 1 wherein said moving step comprises sliding said extendable member with respect to said housing.

3. The method in accordance with Claim 2 wherein said sliding is accomplished by pulling or pushing said extendable member.

4. An adjustable control valve adapted to be located between a pair of piping elements which may be of various distances apart, said valve comprising a housing defining a first portion of a passage through said valve, said valve including an inlet port at a first end of said passage through said valve, said inlet port fixed in position relative to said housing, said inlet port leading to said first portion of said passage through said valve, said valve further including an extendable member permanently coupled to said housing, said extendable member having a first end and a second end, said first end comprising an outlet port of said valve at a second end of said passage through said valve and said second end of said extendable member located within said housing and in communication with said first portion of said passage through said valve, said second end of said extendable member movable within said housing, said extendable member defining a second portion of said passage through said valve, said second portion of said passage defined by said extendable member between said outlet port and said first portion of said passage through said housing, said valve including a control configured to selectively open and close said passage through said valve from said inlet port to said outlet port.



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5. The control valve in accordance with Claim 4 wherein said inlet and outlet ports are positioned at opposing ends of said valve and are generally axially aligned.

6. The control valve in accordance with Claim 4 wherein said second end of said extendable member is slidably mounted within said housing.

7. The control valve in accordance with Claim 4 wherein said second end of said extendable member is slidably mounted in a part of said first portion of said passage through said valve defined by said housing.

8. The control valve in accordance with Claim 4 including at least one seal for sealing a space between said second end of said extendable member and said housing.

9. The control valve in accordance with Claim 4 including means for limiting the movement of said second end of said extendable member with respect to said housing.

10. The control valve in accordance with Claim 9 wherein said first portion of said passage of said valve defined by said housing has a first enlarged part and said second end of said extendable member is located in said enlarged part of said first portion of said passage.

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11. The control valve in accordance with Claim 10 wherein a first wall is defined at an interface between said first enlarged part of said first portion of said passage and a remaining portion of said passage within said housing, said interface comprising a first stop limiting the distance by which said second end of said extendable member may be extended into said housing, and including a second stop at an opposing end of said first enlarged part, said second stop limiting the distance by which said second end of said extendable member may be extended from said housing.

12. The control valve in accordance with Claim 4 wherein said extendable member has a first portion extending from said first end to said second end having a generally uniform diameter and wherein said second end has a diameter greater than said first portion.

13. A method of installing a valve between an inlet and an outlet pipe comprising:  
providing a valve having a housing defining a first portion of a passage through said valve, said valve including a first extendable member having a first end and a second end, said first end comprising a first port of said valve at a first end of said passage through said valve and said second end located within said housing and in communication with said first portion of said passage through said valve, said second end of said first extendable member movable within said housing, said first extendable member defining a second portion of said passage through said valve, said second portion of said passage defined by said first extendable member between said first port and said first portion of said passage through said housing, said valve including a second extendable member having a first end and a second end, said first end comprising a second port of said valve located at an opposing

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end of said passage through said valve from said first port, said second end of said second extendable member located within said housing and in communication with said first portion of said passage through said valve, said second end of said second extendable member movable within said housing, said second extendable member defining a third portion of said passage through said valve, said third portion of said passage defined by said second extendable member between said second port and said first portion of said passage through said housing, the length of said passage through said valve being adjustable in length by moving either or both of said first and second extendable members relative to said housing, said valve including a control configured to selectively open and close said passage through said valve from said first port to said second port, said first and second extendable members permanently coupled to said housing;

moving either or both of said first and second extendable members with respect to said housing whereby said positions of either of both of said first and second ports are changed and said length of said valve is changed; and

connecting said first port and second port of said valve to said inlet and outlet pipes, respectively.

14. The method in accordance with Claim 13 wherein said sliding is accomplished by pulling or pushing either of both of said first and second extendable members.

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15. An adjustable control valve adapted to be located between a pair of piping elements which may be of various distances apart, said valve comprising a housing defining a first portion of a passage through said valve, said valve including a first extendable member having a first end and a second end, said first end comprising a first port of said valve at a first end of said passage through said valve and said second end located within said housing and in communication with said first portion of said passage through said valve, said second end of said first extendable member movable within said housing, said first extendable member connected to said housing so that it may not be disconnected from said valve, said first extendable member defining a second portion of said passage through said valve, said second portion of said passage defined by said first extendable member between said first port and said first portion of said passage through said housing, a second extendable member having a first end and a second end, said first end comprising a second port of said valve located at an opposing end of said passage through said valve from said first port, said second end of said second extendable member located within said housing and in communication with said second portion of said passage through said valve, said second end of said second extendable member movable within said housing, said second extendable member connected to said housing so that it may not be disconnected from said valve, said second extendable member defining a third portion of said passage through said valve, said third portion of said passage defined by said second extendable member between said second port and said first portion of said passage through said housing, the length of said passage through said valve being adjustable in length by moving either of both of said first and second extendable members relative to said housing, and said valve

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including a control configured to selectively open and close said passage through said valve from said first port to said second port.

16. The control valve in accordance with Claim 15 wherein said second end of said first extendable member and said second end of said second extendable member is slidably mounted within said housing.

17. The control valve in accordance with Claim 16 wherein said second end of said first extendable member is slidably mounted in a part of said first portion of said passage through said valve defined by said housing and said second end of said second extendable member is slidably mounted in a part of said first portion of said passage through said valve defined by said housing.

18. The control valve in accordance with Claim 16 including at least one first seal for sealing a space between said second end of said first extendable member and said housing and at least one second seal for sealing a space between said second end of said second extendable member and said housing.

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19. The control valve in accordance with Claim 15 including means for limiting the movement of said second end of said first extendable member with respect to said housing and means for limiting the movement of said second end of said second extendable member with respect to said housing.

20. The control valve in accordance with Claim 15 wherein said first portion of said passage of said valve defined by said housing has a first enlarged part adjacent to said first end of said valve and said second end of said first extendable member is located in said first enlarged part of said first portion of said passage and wherein said second portion of said passage of said valve defined by said housing has a second enlarged part adjacent to said second end of said valve and said second end of said second extendable member is located in said second enlarged part of said first portion of said valve.

21. The control valve in accordance with Claim 15 wherein a first wall is defined at an interface between said first enlarged part of said first portion of said passage and a remaining portion of said passage within said housing, said first wall comprising a first stop limiting the distance by which said second end of said first extendable member may be extended into said housing, and including a second stop at an opposing end of said first enlarged part, said second stop limiting the distance by which said second end of said first extendable member may be extended from said housing, and wherein a second wall is defined at an interface between said second enlarged part of said first portion of said passage and a remaining portion of said passage within said housing, said

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**Filed** : July 29, 2003

second wall comprising a third stop limiting the distance by which said second end of said second extendable member may be extended into said housing, and including a fourth stop at an opposing end of said second enlarged part, said fourth stop limiting the distance by which said second end of said second extendable member may be extended from said housing.

22. The control valve in accordance with Claim 15 wherein said first extendable member has a first portion extending from said first end to said second end thereof having a generally uniform diameter and wherein said second end of said first extendable member has a diameter greater than said first portion, and wherein said second extendable member has a first portion extending from said first end to said second end thereof having a generally uniform diameter and wherein said second end of said second extendable member has a diameter greater than said first portion.

23. The control valve in accordance with Claim 22 wherein said first portion of said first extendable member extends through an opening of a first dimension in said housing and said second end of said first extendable member is located in a part of said first portion of said passage defined by said housing, said part having a second dimension greater than said first dimension, whereby said first extendable member can not be extended outwardly and separate from said housing, and wherein said first portion of said second extendable member extends through an opening of a first dimension in said housing and said second end of said second extendable member is located in a part of said first portion of said passage defined by said housing, said part having a second dimension greater

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**Filed** : July 29, 2003

than said first dimension, whereby said second extendable member can not be extended outwardly and separate from said housing.



<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/519,869	CARPENTER, JOSEPH	
	Examiner	Art Unit	
	John Bastianelli	3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed thru April 15, 2003.
2. ☒ The allowed claim(s) is/are 28-30, 32, and 34-42.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☒ to Paper No. 4.
  - (b) ☒ including changes required by the proposed drawing correction filed 02 August 2001, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>18</u> . |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                       |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance      |
|  | 9 <input type="checkbox"/> Other   |

Art Unit: 3754

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with R. Scott Weide on April 15, 2003.

The application has been amended as follows:

In claim 28, at the end of the claim after "respectively", insert as a new paragraph, -- including providing said valve with a second extendable member having a first end and a second end, said first end comprising said second port of said valve and said second end located within said housing and in communication with said second portion of said passage through said valve, said second end of said second extendable member movable within said housing, said second extendable member defining a third portion of said passage through said valve, said third portion of said passage defined by said second extendable member between said second port and said first portion of said passage through said housing and said second extendable member permanently coupled to said housing, and wherein said moving step comprises moving either or both of said first and second extendable members with respect to said housing whereby said positions of said first and second ports are changed--.

Cancel claim 31.

In claim 32, at the end of the claim after "second port", insert as a new paragraph, -- wherein said valve includes a second extendable member having a first end and a second end,

Art Unit: 3754

said first end comprising said second port of said valve and said second end located within said housing and in communication with said second portion of said passage through said valve, said second end of said second extendable member movable within said housing, said second extendable member connected to said housing so that it may not be disconnected from said valve, said second extendable member defining a third portion of said passage through said valve, said third portion of said passage defined by said second extendable member between said second port and said first portion of said passage through said housing--.

Cancel claim 33.

In claim 34, first line of the claim, change "33" to --32--.

2. The following is an examiner's statement of reasons for allowance: The prior art of record fails to disclose a method of installing a valve or a control valve having a valve with a housing with first and second extendable members, both moveable within the housing having first and second ports, the length of the passages through the valve being adjustable in length, wherein moving either or both extendable members changes the position of the first and second ports and connecting the first and second ports to inlet and outlet pipes.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Allowable Subject Matter***

3. Claims 28-30, 32, and 34-42 are allowed.

Art Unit: 3754

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (703) 305-0058. The examiner can normally be reached on M-F (9:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.



JB  
April 15, 2003

John Bastianelli  
Examiner  
Art Unit 3754



Gene Mancene  
Supervisory Patent Examiner  
Group 3700

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Joseph Carpenter ) Group Art Unit: 3754  
Appl. No. : 09/519,869 )  
Filed : March 6, 2000 )  
For : **CONTROL VALVE HAVING** )  
**MOVEABLE INLET AND OUTLET** )  
Examiner : J. Bastianelli )

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I hereby certify that this correspondence and all marked attachments  
are being deposited with the United States Postal Service as first-  
class mail in an envelope addressed to: Mail Stop Issue Fee,  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-  
1450, on

July 14, 2003

(Date)

R. Scott Wade, Reg. No. 37,755

AMENDMENT AFTER NOTICE OF ALLOWANCE

Mail Stop Issue Fee  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Notice of Allowance mailed April 16, 2003.

Please amend the application as indicated in the attached sections:

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Filed : March 6, 2000

IN THE CLAIMS:

Please replace the following claims as indicated:

28. (Currently Amended)

A method of installing a valve between an inlet and an outlet pipe comprising:

providing a valve having a housing defining a first portion of a passage through said valve, said valve including a first extendable member having a first end and a second end, said first end comprising a first port of said valve at a first end of said passage through said valve and said second end located within said housing and in communication with said first portion of said passage through said valve, said second end of said first extendable member movable within said housing, said first extendable member defining a second portion of said passage through said valve, said second portion of said passage defined by said first extendable member between said first port and [to] said first portion of said passage through said housing, [said valve including a second port at an opposing end of said passage through said valve from said first port] said valve including a second extendable member having a first end and a second end, said first end comprising a second port of said valve located at an opposing end of said passage through said valve from said first port, said second end of said second extendable member located within said housing and in communication with said first portion of said passage through said valve, said second end of said second extendable member movable within said housing, said second extendable member defining a third portion of said passage through said valve, said third portion of said passage defined by said second extendable member between said second port and said first portion of said passage through said housing, the length of said passage through said valve being adjustable in length by moving either or both of said

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first and second extendable members relative to said housing, said valve including a control configured to selectively open and close said passage through said valve from said first port to said second port, said first and second extendable members permanently coupled to said housing;

moving either or both of said first and second extendable members with respect to said housing whereby said positions of either of both of said first and second ports are changed and said length of said valve is changed [moving said first end of said first extendable member within said housing whereby said position of said second port of said valve is changed]; and

connecting said first port and second port of said valve to said inlet and outlet pipes, respectively

[including providing said valve with a second extendable member having a first end and a second end, said first end comprising said second port of said valve and said second end located within said housing and in communication with said second portion of said passage through said valve, said second end of said second extendable member movable within said housing, said second extendable member defining a third portion of said passage through said valve, said third portion of said passage defined by said second extendable member between said second port and said first portion of said passage through said housing and said second extendable member permanently coupled to said housing, and wherein said moving step comprises moving either or both of said first and second extendable members with respect to said housing whereby said position of said first and second ports are changed].

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Filed : March 6, 2000

29. (Canceled)

30. (Currently Amended)

The method in accordance with Claim 29 wherein said sliding is accomplished by pulling or pushing either of both of said first and second extendable members [said extension].

31. (Previously Canceled)

32. (Currently Amended)

An adjustable control valve adapted to be located between a pair of piping elements which may be of various distances apart, said valve comprising a housing defining a first portion of a passage through said valve, said valve including a first extendable member having a first end and a second end, said first end comprising a first port of said valve at a first end of said passage through said valve and said second end located within said housing and in communication with said first portion of said passage through said valve, said second end of said first extendable member movable within said housing, said first extendable member connected to said housing so that it may not be disconnected from said valve, said first extendable member defining a second portion of said passage through said valve, said second portion of said passage defined by said first extendable member between said first port and said first portion of said passage through said housing, [said valve including a second port at an opposing end of said passage through said valve from said first port] a second extendable member having a first end and a second end, said first end comprising a second



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port of said valve located an at opposing end of said passage through said valve from said first port,  
said second end of said second extendable member located within said housing and in  
communication with said second portion of said passage through said valve, said second end of said  
second extendable member movable within said housing, said second extendable member connected  
to said housing so that it may not be disconnected from said valve, said second extendable member  
defining a third portion of said passage through said valve, said third portion of said passage defined  
by said second extendable member between said second port and said first portion of said passage  
through said housing, the length of said passage through said valve being adjustable in length by  
moving either of both of said first and second extendable members relative to said housing, and said  
valve including a control configured to selectively open and close said passage through said valve  
from said first port to said second port

[wherein said valve includes a second extendable member having a first end and a second end,  
said first end comprising said second port of said valve and said second end located within said  
housing and in communication with said second portion of said passage through said valve, said  
second end of said second extendable member movable within said housing, said second extendable  
member connected to said housing so that it may not be disconnected from said valve, said second  
extendable member defining a third portion of said passage through said valve, said third portion of  
said passage defined by said second extendable member between said second port and said first  
portion of said passage through said housing].

33. (Previously Canceled)

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34. (Canceled)

35. (Currently Amended)

The control valve in accordance with Claim 32 wherein said second end of said first extendable member and said second end of said second extendable member [extension] is slidably mounted within said housing.

36. (Currently Amended)

The control valve in accordance with Claim 35 wherein said second end of said first extendable member [extension] is slidably mounted in a part of said first portion of said passage through said valve defined by said housing and said second end of said second extendable member is slidably mounted in a part of said first portion of said passage through said valve defined by said housing.

37. (Currently Amended)

The control valve in accordance with Claim 32 including at least one first seal for sealing a space between said second end of said first extendable member [extension] and said housing and at least one second seal for sealing a space between said second end of said second extendable member and said housing.

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38. (Currently Amended)

The control valve in accordance with Claim 32 including means for limiting the movement of said second end of said first extendable member [extension] with respect to said housing and means for limiting the movement of said second end of said second extendable member with respect to said housing.

39. (Currently Amended)

The control valve in accordance with Claim 32 wherein said first portion of said passage of said valve defined by said housing has a first enlarged part adjacent to said first end of said valve and said second end of said first extendable member is located in said first enlarged part of said first portion of said passage and wherein said second portion of said passage of said valve defined by said housing has a second enlarged part adjacent to said second end of said valve and said second end of said second extendable member is located in said second enlarged part of said first portion of said valve.

40. (Currently Amended)

The control valve in accordance with Claim 39 wherein a first wall is defined at an interface between said first enlarged part of said first portion of said passage and a remaining portion of said passage within said housing, said first wall [interface] comprising a first stop limiting the distance by which said second end of said first extendable member [extension] may be extended into said

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Filed : March 6, 2000

housing, and including a second stop at an opposing end of said first enlarged part, said second stop limiting the distance by which said second end of said first extendable member [extension] may be extended from said housing, and wherein a second wall is defined at an interface between said second enlarged part of said first portion of said passage and a remaining portion of said passage within said housing, said second wall comprising a third stop limiting the distance by which said second end of said second extendable member may be extended into said housing, and including a fourth stop at an opposing end of said second enlarged part, said fourth stop limiting the distance by which said second end of said second extendable member may be extended from said housing.

41. (Currently Amended)

The control valve in accordance with Claim 32 wherein said first extendable member has a first portion extending from said first end to said second end thereof having a generally uniform diameter and wherein said second end of said first extendable member has a diameter greater than said first portion, and wherein said second extendable member has a first portion extending from said first end to said second end thereof having a generally uniform diameter and wherein said second end of said second extendable member has a diameter greater than said first portion.

42. (Currently Amended)

The control valve in accordance with Claim 41 wherein said first portion of said first extendable member extends through an opening of a first dimension in said housing and said second end of said first extendable member is located in a part of said first portion of said passage defined

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by said housing, said part having a second dimension greater than said first dimension, whereby said first extendable member can not be extended outwardly and separate from said housing, and wherein said first portion of said second extendable member extends through an opening of a first dimension in said housing and said second end of said second extendable member is located in a part of said first portion of said passage defined by said housing, said part having a second dimension greater than said first dimension, whereby said second extendable member can not be extended outwardly and separate from said housing.

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Filed : March 6, 2000

### REMARKS

Applicant submits this Amendment along with the Issue Fee in response to the Notice of Allowability mailed April 16, 2003.

Along with the Notice of Allowability mailed April 16, 2003, the Examiner included an Examiner's Amendment. As indicated in that paper and the attached Interview Summary, the undersigned agreed to the amendment of Claims 28 and 32.

As indicated in those papers, the amendments deal primarily with independent Claims 28 and 32, and in particular, to the addition of language regarding a "second extendable member." Upon detailed review of these amendments, Applicant noticed that these amendments have an impact upon the claims which depend therefrom. Applicant believes that certain of the dependent claims must be amended to ensure that they comply with Section 112 and further, because without such amendments, the protection afforded by the claims is affected.

As such, Applicant respectfully requests entry of the amendments indicated above. For clarity, Applicant provides the following information regarding these amendments:

Claim 28: Applicant has amended Claim 28, re-writing it to fully integrate the limitations added by the Examiner into the body of the claim.

Claim 29: Applicant has canceled this claim because, after the amendment to Claim 28, it claims redundant subject matter.

Claim 30: This claim originally defined the step of moving "said extension." Applicant noted that the term "extension" was previously replaced by the term "extendable member" in Claim

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28 from which this claim depends. Further, this claim has been amended to include the term "first and second extendable members" in light of the Examiner's amendment to Claim 28.

Claim 31: This claim was previously canceled, as indicated by the Examiner.

Claim 32: Applicant has amended Claim 32, re-writing it to fully integrate the limitations added by the Examiner into the body of the claim.

Claim 33: This claim was previously canceled, as indicated by the Examiner.

Claim 34: Applicant has canceled this claim because, after the amendment to Claim 32, it claims redundant subject matter.

Claims 35: This claim used the term "extension." Applicant noted that the term "extension" was previously replaced by the term "extendable member" in Claim 32 from which this claim depends. Further, this claim has been amended to include the term "first and second extendable members" in light of the Examiner's amendment to Claim 32.

Claim 36: This claim used the term "extension." Applicant noted that the term "extension" was previously replaced by the term "extendable member" in Claim 32 from which this claim depends. Further, this claim has been amended to include the term "first and second extendable members" in light of the Examiner's amendment to Claim 32.

Claim 37: This claim used the term "extension." Applicant noted that the term "extension" was previously replaced by the term "extendable member" in Claim 32 from which this claim depends. Further, this claim has been amended to include the term "first and second extendable members" in light of the Examiner's amendment to Claim 32. In light of the amendment to

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independent Claim 32, this claim has also been amended to include a "second seal" associated with the "second extendable member."

Claim 38: This claim used the term "extension." Applicant noted that the term "extension" was previously replaced by the term "extendable member" in Claim 32 from which this claim depends. Further, this claim has been amended to include the term "first and second extendable members" in light of the Examiner's amendment to Claim 32. In light of the amendment to independent Claim 32, this claim has also been amended to include a "means for limiting the movement" associated with the "second extendable member."

Claim 39: Applicant has amended the claim to clarify "second end" as used in the claim and, in light of the amendment to independent Claim 32, this claim has been amended to define a corresponding limitation for the "second extendable member."

Claim 40: This claim used the term "extension." Applicant noted that the term "extension" was previously replaced by the term "extendable member" in Claim 32 from which this claim depends. Further, this claim has been amended to include the term "first and second extendable members" in light of the Examiner's amendment to Claim 32. In addition, Applicant has amended the claim to include corresponding limitations for the "second extendable member."

Claim 41: Applicant has amended the claim to clarify "second end" as used in the claim and, in light of the amendment to independent Claim 32, this claim has been amended to define a corresponding limitation for the "second extendable member."

Claim 42: Applicant has amended this claim to include a corresponding limitation as applied to the "second extendable member."



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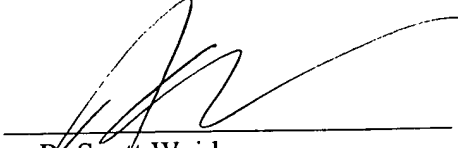
SUMMARY

In accordance with M.P.E.P. § 714.16, Applicant asserts that the above-referenced amendments:

- (1) do not change the scope of the allowed claims;
- (2) are needed for proper protection of the invention and compliance with Section 112 and other Patent Office Rules; and
- (3) will require no substantial amount of work on the part of the Office to enter and approve.

Applicant apologizes for any inconvenience to the Office. However, as indicated above, Applicant asserts that these amendments are necessary and proper and therefore requests their entry. If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

Dated: July 14, 2003 By:   
R. Scott Weide  
Registration No. 37,755  
Weide & Miller, Ltd.  
7451 W. Lake Mead Blvd., Suite 530  
Las Vegas, NV 89128  
(702)-382-4804 (Pacific time)



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,869	03/06/2000	Joseph Carpenter	EXECU.0001P	8874
32856	7590	10/17/2003	EXAMINER	
WEIDE & MILLER, LTD. 7251 W. LAKE MEAD BLVD. SUITE 530 LAS VEGAS, NV 89128			BASTIANELLI, JOHN	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 10/17/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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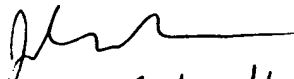
20

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The applicant has already paid the issue fee therefore it is too late to change the claims. The applicant may change the claims in a continuing application.

  
John Eastman  
AV 3751 Patent Examiner